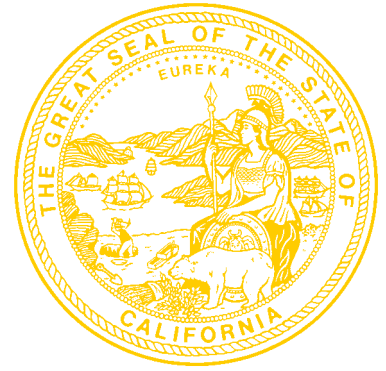


FPPC *Bulletin*



December 2004

Fair Political Practices Commission

Volume 30, No. 4

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Toll-free Advice Line: 1-866-ASK-FPPC

Public officials, local government filing officers, candidates, lobbyists and others with obligations under the Political Reform Act are encouraged to call toll-free for advice on issues including campaign contributions and expenditures, lobbying and conflicts of interest. *FPPC staff members answer thousands of calls for telephone advice each month.*

Filing Officer Guidelines Approved by Commission

By Lynda Cassady
Assistant Chief, Technical Assistance Division

The Political Reform Act requires public officials to disclose assets and income which may be materially affected by their official actions.

The Act also requires governmental agencies to ensure that their public officials (board/commission members, employees and consultants) disclose their interests on or before the statutory deadline. Filing officers must supply a Statement of Economic Interests (Form 700) to those officials who have assuming, initial, annual and leaving office filing obligations, and notify filers who have failed to file.

At its December 9 meeting, the Commission adopted the following guidelines to provide a suggested timeline for notifications to individuals who must file an annual Statement of Economic Interests. An enforcement referral must be made if a statement is not filed and suggested procedures are provided.

In order to determine which individuals are required to file, agencies should carefully review the list of designated positions in their conflict-of-interest codes (including consultants); update their conflict-of-interest codes in compliance with existing law; and know the list of filers covered under Government Code section 87200.

•**Pre-Filing Notification:** A filing officer should provide notification to filers at least 30 days prior to the deadline for filing an annual statement. Notification may be oral, or in writing by e-mail, fax, mail, or personal delivery.

•**Non-filer Notification:** If a filer fails to file by the statutory dead-

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**California
Fair Political
Practices Commission**

Commissioners

Liane Randolph, Chair
Philip Blair
Sheridan Downey III
Pamela Karlan
Thomas S. Knox

Commission Meetings

Meetings are generally scheduled monthly in the Commission Hearing Room, 428 J Street, 8th Floor, Sacramento. Please contact the Commission or check the FPPC web site, <http://www.fppc.ca.gov>, to confirm meeting dates.

Pursuant to section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Decision and Order materials must be received by the FPPC no later than three (3) business days prior to the ten day notice date.

The Commission meeting agenda and supporting documents are available free of charge on the Commission's web site at <http://www.fppc.ca.gov>. Additionally, past and future agendas are posted on the web site.

Fair Political Practices Commission 2005 Commission Meeting Schedule

The Fair Political Practices Commission currently is planning to meet on the following dates during calendar year 2005:

Thursday, January 20, 2005

Thursday, February 10, 2005

Thursday, March 10, 2005

Thursday, April 14, 2005

Thursday, May 12, 2005

Thursday, June 9, 2005

Thursday, July 7, 2005

No meeting in August, 2005

Thursday, September 1, 2005

Thursday, October 6, 2005

Thursday, November 3, 2005

Thursday, December 1, 2005

Meetings generally begin at 9:30 a.m. or 9:45 a.m. in the FPPC's 8th floor hearing room at 428 J Street, Sacramento, but check the FPPC website regularly as dates and times can change.

The FPPC *Bulletin* is published by the Fair Political Practices Commission
428 J Street, Suite 620, Sacramento, CA 95814

Internet: <http://www.fppc.ca.gov>

Toll-free advice line: 1-866-ASK-FPPC (1-866-275-3772)

Telephone: 1-916-322-5660

Enforcement hotline: 1-800-561-1861

The *Bulletin* is published quarterly on the FPPC web site. To receive the *Bulletin* by e-mail, use our web site Mailing Lists tool at <http://www.fppc.ca.gov/index.html?id=408>

...SEI Filing Officer Guidelines Approved by Commission

(Continued from page 1)

line, the filing officer should notify the non-filer in writing that his or her statement has not been received. See the chart below for recommended deadlines. These notification letters should be personally delivered or mailed to a location that is most likely to result in actual notice to the non-filer.

The filing officer should maintain a log with a record of each notification, communicated by any means, and should include a notation of whether the notice was provided by telephone, personal delivery, e-mail or in writing. The agency should maintain a copy of all written notifications.

•**Enforcement Referral:** Filing officers have a duty to refer non-filers to an enforcement authority. Each filing officer should refer to the FPPC or other appropriate enforcement agency any individual who fails to file a statement after being sent at least two written notifications. The FPPC is the enforcement agency for all state and multi-county agencies.

All other agencies may refer non-filers to the District Attorney, the elected city attorney in charter cities, or the FPPC as they deem appropriate. An enforcement referral form for the FPPC is available at www.fppc.ca.gov.

Small Agencies with 50 Filers or Less Table of Recommended Timelines

Annual Notice	First Non-Filer Notice	Second Non-Filer Notice	Enforcement Referral
March 1 or earlier	Within 30 days after annual deadline (May 1 or earlier)	Within 30 days after first non-filer notice is sent (June 1 or earlier)	Within 30 days after second non-filer notice is sent (July 1 or earlier)

Agencies with More Than 50 Filers Table of Recommended Timelines

Annual Notice	First Non-Filer Notice	Second Non-Filer Notice	Enforcement Referral
March 1 or earlier	Within 120 days after annual deadline (August 1 or earlier)	Within 60 days after first non-filer notice is sent (October 1 or earlier)	Within 45 days after second non-filer notice is sent (November 15 or earlier)

The Commission-endorsed guidelines will be posted soon on the FPPC's website at www.fppc.ca.gov. The site also contains other information that filing officers may find helpful.

See additional Statement of Economic Interests information beginning on pages 5 and 17 of this issue.

Gift and Contribution Limits Adjusted

Higher Gift Limit, Contribution Limits, Voluntary Expenditure Ceilings For 2005/2006

By Hal Dasinger
FPPC Political Reform Consultant

Every two years, the FPPC is required to adjust the limit on gifts to public officials, as well as the contribution limits and voluntary expenditure ceilings enacted by Proposition 34. The process for adjusting these figures is specified in regulation 18940.2 (gift limit) and 18544 (contribution limits and voluntary expenditure ceilings). Briefly stated, the regulations require the Commission to multiply the base year limits by the change in consumer prices since the limits were established.

Gift limit

- Using the formula specified in regulation 18940.2, the Commission has determined that the gift limit for the period from January 1, 2005 through December 31, 2006 will be \$360.

Contribution Limits/Expenditure Ceilings

- Using the formula specified in regulation 18544, the Commission has established the following contribution limits and voluntary expenditure ceilings for elections held on or after January 1, 2005:

Per-election Limits on Contributions to State Candidates (For elections held on or after January 1, 2005)

Contributor	Legislature	Statewide Except Governor	Governor
Person	\$3,300	\$5,600	\$22,300
Small Contributor Committee	\$6,700	\$11,100	\$22,300
Party	No limit	No limit	No limit

Calendar Year Limits on Contributions to Other Committees (For elections held on or after January 1, 2005)

Contributor	Committee (Not Political Party) that Contributes to State Candidates	Political Party for State Candidates	Committee/Political Party Not for State Candidates
Person	\$5,600	\$27,900	No limit

Voluntary Expenditure Limits for Candidates for Elective State Offices (For elections held on or after January 1, 2005)

	Assembly	Senate	Governor	Statewide	Board of Equalization
Primary	\$446,000	\$ 669,000	\$ 6,690,000	\$4,460,000	\$1,115,000
General	\$780,000	\$1,003,000	\$11,150,000	\$6,690,000	\$1,672,000

Commission Approves Changes to Campaign Disclosure and Statement of Economic Interests Forms

Form Revisions for 2005

A number of FPPC forms have undergone changes to reflect new legislation or to clarify instructions.

Forms with new versions in 2005 include the 460 (Recipient Committee Campaign Statement), 501 (Candidate Intention Statement), and 700 (Statement of Economic Interests).

Form 460

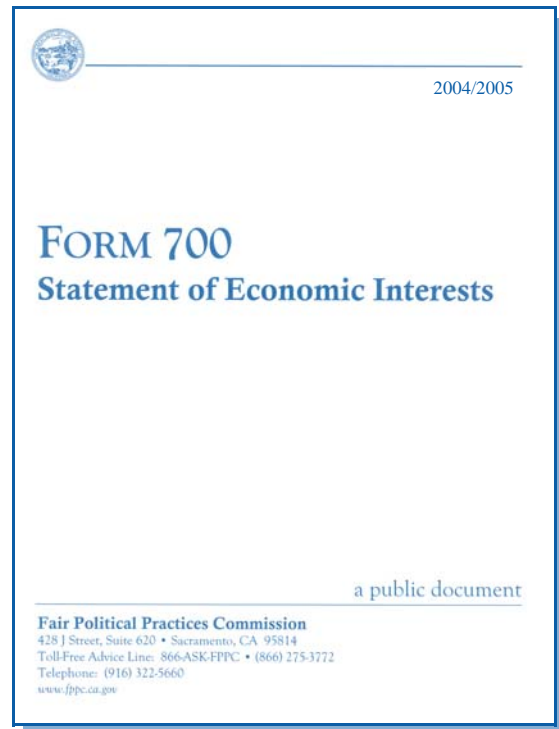
Changes to the Form 460 are intended to clarify the instructions for reporting. Look for more explicit distinction of primarily formed ballot measure committees, a new example to explain multiple filings for candidates with more than one committee, and an explanation of how to report when a state candidate guarantees a loan from a commercial lender. Other new text explains reporting of credit card charges and payments.

Form 501

The Form 501 has been updated to include an explanation of the new law allowing state candidates to change their minds about accepting or rejecting the voluntary expenditure limits. Before the statutory amendment, candidates could amend the Form 501 only under very restricted circumstances. The new law allows a candidate to amend the Form 501 up to two times before the deadline for filing nomination papers.

Form 700

The Form 700 for 2005 will include a number of new examples and other non-substantive alterations, intended to improve the clarity of the instructions and to answer questions we are



asked frequently by callers to 1-866-ASK-FPPC. In addition, the Form 700 incorporates reporting for community property of registered domestic partners, reflects the increased gift limit (\$360) for 2005/2006, and simplifies loan reporting.

The form revisions were approved at the December 9 meeting of the Commission.

The updated forms will be available from our web site beginning early in January 2005.

Visit <http://www.fppc.ca.gov> and click on the "Forms" button in the upper right corner of the home page to see a complete list of our downloadable forms. The draft forms, which should not be used, may be viewed by selecting "Agenda" in the left margin of the home page, and then reviewing the December agenda, item 14 (Form 700) and item 15 (campaign forms).

Candidate-Controlled Ballot Measure Committees Now Subject to Contribution Limits

The contribution limits of California Government Code sections 85301 and 85302 now apply to state candidate-controlled ballot measure committees, under a new FPPC regulation.

The regulation, 18530.9, was approved by the Commission earlier this year but did not take effect until November 3, 2004, the day after the statewide General Election.

Generally, ballot measure committees controlled by state candidates are now subject to the same contribution limits as candidate committees.

An excerpt from the new regulation is printed

“b) Notwithstanding Government Code sections 85310, subdivision (c), the contribution limits of Government Code sections 85301 and 85302 apply to any committee controlled by a candidate for elective state office that is established for the purpose of supporting or opposing state or local ballot measures. The applicable limit is that which applied to the controlling candidate at the time the ballot measure committee was formed or became controlled by that candidate.”

— from new FPPC Regulation 18530.9

in the box above. The complete text of the regulation can be found on the FPPC website at:

<http://www.fppc.ca.gov/index.html?id=247>

State Agency Conflict-of-Interest Code Reviews Due March 1

Next year is an odd-numbered year, which means for state agencies that biennial notices are due March 1, 2005. Government Code section 87306 requires each state agency to review its conflict-of-interest code biennially to determine if it is accurate or, alternatively, that the code must be amended.

Once the determination has been made, a notice must be submitted to the FPPC no later than March 1 of each odd-numbered year. After submitting a notice indicating an amendment is necessary, agencies have 90 days to submit the amendment to the FPPC for review and approval.

The FPPC will mail the biennial notices to agency contact persons in early January 2005. Conflict-of-interest code amendment seminars are scheduled on February 1 and February 17, 2005. Persons responsible for reviewing or amending agency codes may also wish to consult the model disclosure categories approved by the Commission. These model categories are posted on our website. To view

2005 Conflict-of-Interest Code Review Seminars for State Agencies

Tuesday, February 1, 1:00 p.m.

and

Thursday, February 17, 10:00 a.m.

Both seminars will be held at the FPPC office at 428 J St., 8th floor, Sacramento, CA.

Reservations are required. Please call 916-322-5660 or toll-free 1-866-275-3772. Ext 3.

them, select “Conflict of Interest” in the left margin of our home page; then select “Adopting a Conflict-of-Interest Code” from the list of subheadings on the left. The link to the model categories is at the end of section number 3. Or go directly with this link:

<http://www.fppc.ca.gov/index.html?id=396>

Commission Staff Pursues Section 1090 Pilot Project

On October 7, 2004, the Commission considered a staff proposal to dedicate staff resources to the incorporation of Public Contracts Code sections 10410 and 10411 into the Act, and the development of a pilot project to grant limited jurisdiction to the Commission over Government Code section 1090, et seq., through a three-year pilot project.

The pilot project was endorsed by the League of Cities. The Commission formerly directed staff to pursue both projects legislatively.

The 1090 Pilot Project, as proposed, would have the following characteristics:

- 1) Section 1090 will not be moved or amended at this time.
 - 2) The pilot project will run for a three-year period beginning January 1, 2006.
 - 3) The FPPC will provide written opinions on the application of 1090, subject to the following parameters:
- The FPPC will forward a copy of the opinion request to the Attorney General's office, the local district attorney and local agency legal counsel prior to proceeding with a draft opinion;

- The response will follow a process similar to the existing Commission opinion process as set forth in Commission regulations including circulation of a draft opinion for review by the Attorney General's office, the local district attorney and the public;
- The Commission will be given sufficient additional funding to deal with the increased workload (including the educational component).

Staff anticipates ongoing public involvement as actual legislative language is developed. For more information regarding the scope of this study, see the Interested Persons Page on our website at:

<http://www.fppc.ca.gov/index.html?id=450#2>

To sign up as an Interested Person, please go to our Mailing Lists page at:

<http://www.fppc.ca.gov/index.html?id=408>

FPPC Participates In International Ethics Conference

The FPPC was an active participant in the 26th annual conference of the Council On Governmental Ethics Laws, held December 5-8 in San Francisco.

FPPC Commission members and staff moderated or served as panelists for a variety of events, including seminars on pre-election enforcement actions; tribal sovereignty issues; the enforcement of ethics, campaign finance and lobbying laws, and media relations.



Meeting Summaries

Summaries of actions at the Commission's regular monthly meetings are posted on the Commission's website at:

<http://www.fppc.ca.gov/index.html?id=63>

See the following article for a summary of enforcement actions.

Enforcement Summaries

November Commission Meeting

Campaign Reporting Violations- Default Decisions

In the Matter of BJK Investments, Inc., FPPC No. 03/560. Staff: Commission Counsel Elizabeth K. Conti and Investigator III Jon Wroten. Respondent BJK Investments, Inc., a California corporation headquartered in San Francisco, failed to file a semi-annual campaign statement, in violation of section 84200, subdivision (b) of the Government Code (1 count). \$5,000 fine.

In the Matter of Miranda Tsao, FPPC No. 04/163. Staff: Commission Counsel Elizabeth K. Conti and Investigator III Jon Wroten. Respondent Miranda Tsao, a resident of Cupertino, failed to file a semi-annual campaign statement, in violation of section 84200, subdivision (b) of the Government Code (1 count). \$5,000 fine.

Campaign Reporting Violations - Statement of Economic Interests

In the Matter of Henry Manayan, Manayan for Mayor, and Manayan for Mayor 2000, FPPC No. 00/752. Staff: Senior Commission Counsel Melodee A. Mathay and Accounting Specialist

Bill Marland. Respondent Henry Manayan was elected to the Milpitas City Council in 1994, and served as the Mayor of Milpitas from 1996 through 2002. Respondents Manayan for Mayor and Manayan for Mayor 2000 were Respondent Manayan's controlled committees. Between 1999 and 2001, Respondents failed to timely file three semi-annual campaign statements, in violation of Government Code section 84200, subdivision (a) (3 counts). In addition, Respondent Manayan failed to timely file an annual statement of economic interests, in violation of Government Code section 87203 (1 count), and failed to timely file a leaving office statement of economic interests, in violation of Government Code section 87204 (1 count). \$5,000 fine.

Conflicts of Interest

In the Matter of Mark Baldwin, FPPC No. 03/204. Staff: Senior Commission Counsel Julia Bilaver, Investigator III Jon Wroten. As a consultant for the Department of Water Resources, Mark Baldwin twice participated in making governmental decisions in which he had a financial interest, in violation of Government Code section 87100 (2 counts); participated in making a governmental decision directly relating to a contract involving a company with which he had a business relationship, in violation of section 87450 (1 count); and failed to disclose three companies as sources of income on an assuming office statement of economic interests, in violation of section 87300 (3 counts). \$25,500 fine.

Statement of Economic Interests

In the Matter of Michael Jackman, FPPC No. 02/1083. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Respondent Michael Jackman, an Industrial Relations Counsel for the for the California Department of Industrial Relations, failed to timely file a 2001, 2002, and 2003 annual statement of economic interests, in violation of Government Code section 87300 (3 counts). \$2,100 fine.

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Statement of Economic Interests Streamlined Program

Failure to Timely File Statements of Economic Interests. Staff: Commission Counsel Jeffery A. Sly and Political Reform Consultant Linda Denly. The following persons have entered into stipulations for failing to timely file statements of economic interests, in violation of Government Code sections 87202, 87203, 87204 or 87300:

- **In the Matter of Anthony Bejarano, FPPC No. 04/446.** Anthony Bejarano, a member of the Planning Commission for the City of Baldwin Park, failed to timely file a 2003 annual statement of economic interests in violation of Government Code section 87203 (1 count). \$100 fine.
- **In the Matter of Jorge Jasso, FPPC No. 04/442.** Jorge Jasso, a member of the Planning Commission for the City of Salinas, failed to timely file a 2003 annual statement of economic interests in violation of Government Code section 87203 (1 count). \$100 fine.
- **In the Matter of William Kruer, FPPC No. 04/505.** William Kruer, a member of the California Coastal Commission, failed to timely file a 2003 annual statement of economic interests in violation of Government Code section 87203 (1 count). \$100 fine.
- **In the Matter of Carol Romo, FPPC No. 04/411.** Carol Romo, a member of the Registered Nursing Board for the State of California, Department of Consumer Affairs, failed to timely file a 2003 annual statement of economic interests in violation of Government Code section 87300 (1 count). \$100 fine.
- **In the Matter of Roger Farrell, FPPC No. 04/254.** Roger Farrell, a member of the Traffic Safety Committee for the City of Sonoma, failed to timely file an assuming office statement of economic interests in violation of

Government Code section 87300 (1 count). \$100 fine.

- **In the Matter of Bobbie Parks, FPPC No. 04/0459.** Bobbie Parks, a member of the Baldwin Hills Conservancy, failed to timely file an assuming office and 2003 annual statement of economic interests in violation of Government Code sections 87202 (1 count) and 87203 (1 count). \$200 fine.
- **In the Matter of Nicholas Arguimbau, FPPC No. 04/086.** Nicholas Arguimbau, a member of the Planning Commission for the Town of Fairfax, failed to timely file an assuming office and 2000 annual statement of economic interests, in violation of Government Code sections 87202 and 87203 (2 counts). \$200 fine.

Informational Item -- Civil Settlements

Fair Political Practices Commission v. Association of California School Administrators Issues Political Action Committee and Bob Wells, FPPC No. 03/282. Staff: Senior Commission Counsel Julia Bilaver and Investigator II Charlie Bilyeu. Defendant Association of California School Administrators Issues Political Action Committee is a state general purpose committee that is sponsored by the Association of California School Administrators ("ACSA"). Defendant Bob Wells is the treasurer of Defendant Committee and the Executive Director of ACSA. Defendants failed to file two pre-election campaign statements, disclosing \$430,000 in contributions made in opposition to Proposition 38, a measure appearing on the ballot in the November 7, 2000 statewide general election, in violation of Government Code section 84200.5. The parties stipulated to a final judgment in the case by the Superior Court. As provided in the stipulated judgment, the defendants will pay a civil penalty of \$25,000.

Fair Political Practices Commission v. San Franciscans Against the Blank Check-No on Measure D Committee Sponsored by PG&E, James R. Sutton, and PG&E Corporation, FPPC No. 03/061. Staff: Commission Counsel

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William J. Lenkeit, Investigator III Jon Wroten. Defendant San Franciscans Against the Blank Check-No on Measure D Committee Sponsored by PG&E (the "Committee") was a local ballot measure committee primarily formed to oppose Measure D in the November 5, 2002 San Francisco general election. Defendant James R. Sutton was the treasurer of Defendant Committee. Defendant PG&E Corporation was the sponsor of Defendant Committee. Defendants PG&E and Sutton failed to disclose making two late contributions totaling \$800,000 to Defendant Committee in properly filed paper and electronic late contribution reports, in violation of Government Code sections 84203, and 84605, subdivision (a). Defendants Committee and Sutton also failed to disclose receiving the two late contributions in properly filed paper late contribution reports, in violation of Government Code section 84203. The parties stipulated to a final judgment in the case by the Superior Court. As provided in the stipulated judgment, the defendants will pay a civil penalty of \$140,000.

October Commission Meeting

Filing Officer Violations

In the Matter of Compton Community College District and Ulis Williams, FPPC No. 01/729.

Staff: Commission Counsel Steven Meinrath and Investigator III Jon Wroten. Respondent Compton Community College District is a part of the state community college system and oversees Compton Community College, which is the only college in the district. Respondent Ulis Williams is the Superintendent of the Compton Community College District and the President of Compton Community College. Respondents failed to perform their duties as the filing officer for the District's designated employees under the District's conflict-of-interest code with respect to 42 statements of economic interests, in violation of Government Code section 81010 (42 counts). \$100,000 fine.

Campaign Reporting Violations

In the Matter of Californians for Community Safety – Committee Against Proposition 21 and Ralph Miller, FPPC No. 02/430.

Staff: Commission Counsel Julia Bilaver and Investigator III Leon Nurse-Williams. Respondent Californians for Community Safety – Committee Against Proposition 21 was a ballot measure committee sponsored by the Los Angeles County Probation Officers Union, American Federation of State, County & Municipal Employees, Local 685 and primarily formed to oppose Proposition 21 in the March 7, 2000, statewide Primary Election. Respondent Ralph Miller served as the treasurer of the committee. Respondents failed: to include the name of the sponsor in the name of the sponsored committee on the committee's statement of organization, in violation of Government Code section 84102, subdivision (a) (1 count); to timely file a paper pre-election campaign statement, in violation of Government Code section 84200.5 (1 count); to timely file an electronic pre-election campaign statement, in violation of Government Code section 84604, subdivision (a)(1) (1 count); to disclose the receipt of three late contributions on properly filed late contribution reports, in violation of Government Code section 84203, subdivision (a) (3 counts); and failed to timely file a paper semi-annual campaign statement, in violation of Government Code section 84200, subdivision (a) (1 count). \$13,750 fine.

In the Matter of Garden Grove Firefighters Association, Local 2005, FPPC No. 01/166.

Staff: Commission Counsel Julia Bilaver and Investigator II Charlie Bilyeu. Respondent Garden Grove Firefighters Association, Local 2005, is a labor organization for firefighters based in Garden Grove, Calif. Respondent failed to itemize required information regarding cumulative contributions of \$100 or more from 88 of its members during three reporting periods, in violation of Government Code section 84211, subdivision (f) (3 counts). \$4,500 fine.

In the Matter of Michael Morgan, Morgan for Supervisor, and Donna Morgan, FPPC No. 02/348.

Staff: Commission Counsel Julia Bilaver

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and Investigator III Sandra Buckner. Respondent Michael Morgan was a candidate for the Ventura County Board of Supervisors in the election held on November 7, 2000. Respondent Morgan for Supervisor was the controlled committee of Respondent Morgan. Respondent Donna Morgan served as treasurer of Respondent Committee. Respondents failed to timely file a semi-annual campaign statement, in violation of Government Code section 84200, subdivision (a) (1 count). \$2,000 fine.

In the Matter of Kelli Moors and Friends of Kelli Moors, FPPC No. 01/722. Staff: Commission Counsel Julia Bilaver and Investigator Charlie Bilyeu. Respondent Kelli Moors was a candidate for the Carlsbad Unified School District Board of Trustees in the election held on Nov. 7, 2000. Respondent Friends of Kelli Moors was Moors' controlled committee. Respondents failed to timely file a semi-annual campaign statement, in violation of Government Code section 84200, subdivision (a) (1 count). \$1,000 fine.

In the Matter of Terri Williamson, Committee to Re-elect Terri Williamson, and Veronica Paschall, FPPC No. 01/413. Staff: Commission Counsel Elizabeth K. Conti and Investigator III Dan Schek. Respondent Terri Williamson has served as a member of the Pleasant Hill City Council since Nov. 5, 1985. Respondent Committee to Re-elect Terri Williamson is Williamson's controlled committee. Respondent Veronica Paschall was the committee treasurer. Respondents failed to file semi-annual campaign statements, in violation of section 84200, subdivision (a) of the Government Code (three counts); and Respondent Williamson failed to timely file an annual statement of economic interests, in violation of section 87203 of the Government Code (one count). \$3,000 fine.

Late Contribution Reports

In the Matter of Lennar Homes of California, Inc., FPPC No. 04/323. Staff: Commission Counsel Elizabeth K. Conti and Investigator III Jon Wroten. Respondent Lennar Homes of

California, Inc. is a California homebuilder located in Aliso Viejo. Respondent failed to timely disclose a late contribution in a late contribution report, in violation of section 84203 of the Government Code (one count); and failed to timely disclose a late contribution in an electronically filed late contribution report, in violation of section 84605, subdivision (a) of the Government Code (one count). \$10,000 fine.

Statement of Economic Interests Streamlined Program

Failure to Timely File Statements of Economic Interests. Staff: Commission Counsel Jeffery A. Sly, Investigator III Dan Schek, and SEI Coordinator Mary Ann Kvasager. The following persons have entered into stipulations for failing to timely file statements of economic interests, in violation of Government Code sections 87202, 87203, 87204 or 87300:

- **In the Matter of Elmer Muller, FPPC No. 03/528.** Elmer Muller, a member of the California Sheep Commission, failed to timely file a 2002 annual statement of economic interests, in violation of Government Code section 87300 (1 count). \$100 fine.
- **In the Matter of G.J. (Rod) Murphy, FPPC No. 03/624.** G.J. (Rod) Murphy, a member of the Building Board of Appeals & Condemnation for the City of Palm Desert, failed to timely file a 2001 and 2002 annual statement of economic interests, in violation of Government Code section 87300 (2 counts). \$200 fine.
- **In the Matter of Michelle Yu, FPPC No. 03/846.** Michelle Yu, an Industrial Relations Counsel for the Department of Industrial Relations, failed to timely file a 2002 annual statement of economic interests, in violation of Government Code section 87300 (1 count). \$100 fine.
- **In the Matter of Johnny Edwards, FPPC No. 04/018.** Johnny Edwards, a member of the California Aging Commission, failed to

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timely file an assuming office statement of economic interests, in violation of Government Code section 87300 (1 count). \$100 fine.

September Commission Meeting

Campaign Reporting Violations

In the Matter of International Brotherhood of Electrical Workers Committee on Political Education, Sponsored by International Brotherhood of Electrical Workers, and Edwin D. Hill, FPPC No. 02/165. Staff: Commission Counsel Elizabeth K. Conti and Accounting Specialist Luz Bonetti. Respondent International Brotherhood of Electrical Workers Committee on Political Education, sponsored by the International Brotherhood of Electrical Workers, is a state general purpose committee. Respondent Edwin D. Hill served as the treasurer of the committee. Respondents failed to file: a semi-annual campaign statement, in violation of Government Code section 84200(a) (one count); pre-election campaign statements, in violation of Government Code section 84200.7 (three counts); pre-election campaign statements, in violation of Government Code section 84200.8 (one count); and failed to disclose 26 late contributions in properly filed late contribution reports, in violation of Government Code section 84203(a) (26 counts). \$18,475 fine.

In the Matter of International Brotherhood of Painters and Allied Trades Political Action Together Legislative and Educational Committee—Contribution Account and James Williams, FPPC No. 04/115. Staff: Commission Counsel Julia Bilaver and Investigator II Charlie Bilyeu. Respondent International Brotherhood of Painters and Allied Trades Political Action Together, Legislative and Educational Committee—Contribution Account, is a state general purpose recipient committee based in Washington, D.C., sponsored by the International Broth-

erhood of Painters and Allied Trades, a labor union. Respondent James Williams serves as treasurer of the committee. Respondents failed to disclose 11 late contributions in properly filed late contribution reports, in violation of Government Code section 84203(a) (11 counts). \$7,000 fine.

In the Matter of Yellowstone Development, LLC, FPPC No. 04/322. Staff: Commission Counsel Elizabeth K. Conti and Investigator III Jon Wroten. Respondent Yellowstone Development, LLC, is a land development and real estate sales corporation in Big Sky, Mont. Respondent failed: to timely disclose a late contribution in a properly filed late contribution report, in violation of Government Code section 84203(a) (1 count); to disclose a late contribution in a properly filed electronic late contribution report, in violation of Government Code section 84605(a); to timely file a semi-annual campaign statement, in violation of Government Code section 84200(b) (1 count); and failed to file an electronic semi-annual campaign statement, in violation of Government Code section 84605(a) (1 count). \$16,000 fine.

In the Matter of Tom Gilmore & Associates, LLC, FPPC No. 02/1049. Staff: Commission Counsel Elizabeth K. Conti and Investigator III Jon Wroten. Respondent Tom Gilmore & Associates, LLC, is a California limited-liability real estate development corporation headquartered in Los Angeles. Respondent failed to disclose two late contributions in properly filed late contribution reports, in violation of Government Code section 84203(a) (2 counts); and failed to file a semi-annual campaign statement, in violation of Government Code section 84200(b) (1 count). \$7,000 fine.

In the Matter of No on Prop A and Rodney Scott, FPPC No. 01/562. Staff: Commission Counsel Julia Bilaver and Investigator II Charlie Bilyeu. Respondent No on Prop A was a local ballot measure committee primarily formed to oppose Proposition A in the March 2001 election held in the City of West Hollywood. Respondent Rodney Scott served as the treasurer of the committee. Respondents failed to timely

(Continued from page 12)

file a semi-annual campaign statement, in violation of Government Code section 84200(a) (1 count). \$1,000 fine.

Statement of Economic Interests **— Default Decision and Order**

In the Matter of Ronald Bullard, FPPC No. 02/597. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Respondent Ronald Bullard, a member of the Dental Examiners Board for the California Department of Consumer Affairs, failed to timely file 2001 and 2002 annual statements of economic interests, in violation of Government Code section 87300 (2 counts). \$4,000 fine.

In the Matter of Jim Rosecrans, FPPC No. 02/803. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Respondent Jim Rosecrans, a member of the Butte Valley Resource Conservation District in Siskiyou County, failed to timely file 2001 and 2002 annual statements of economic interests, in violation of Government Code section 87300 (2 counts). \$3,000 fine.

In the Matter of Naresh Kamboj, FPPC No. 02/547. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Respondent Naresh Kamboj, a member of the California Commission on Aging, failed to timely file a 2001 annual and leaving office statement of economic interests, in violation of Government Code section 87300 (2 counts). \$3,500 fine.

In the Matter of Kurt Scholberg, FPPC No. 02/739. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Respondent Kurt Scholberg, a member of the Sierra County Planning Commission, failed to timely file a 2001 annual statement of economic interests, in violation of Government Code section 87203 (1 count). \$1,500 fine.

In the Matter of Rafael Torres, FPPC No. 02/455. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Respondent Rafael Torres, a member of the City

of Guadalupe Planning Commission, failed to timely file an assuming office, 2001 annual, and 2002 annual statement of economic interests, in violation of Government Code sections 87202 and 87203 (3 counts). \$5,000 fine.

Statement of Economic Interests **— Streamlined Program**

Failure to Timely File Statements of Economic Interests. Staff: Commission Counsel Jeffery A. Sly, Investigator III Dan Schek, and SEI Coordinator Mary Ann Kvasager. The following persons have entered into stipulations for failing to timely file statements of economic interests, in violation of Government Code sections 87202, 87203, 87204 or 87300:

- **In the Matter of Karl Thurmond, FPPC No. 03/861.** Karl Thurmond, a member of the Pest Control Board for the state Department of Consumer Affairs, failed to timely file a 2002 annual statement of economic interests, in violation of Government Code section 87300 (1 count). \$100 fine.
- **In the Matter of Jonathan Zasloff, FPPC No. 03/688.** Jonathon Zasloff, a member of the Santa Monica Mountains Conservancy, failed to timely file a 2002 annual statement of economic interests, in violation of Government Code section 87300 (1 count). \$100 fine.
- **In the Matter of Raffi Kradjian, FPPC No. 03/076.** Raffi Kradjian, a member of the California State Assistance Fund for Enterprise, Business and Industrial Development, failed to timely file an assuming office statement of economic interests, in violation of Government Code section 87300 (1 count). \$100 fine.
- **In the Matter of Miguel Garcia, FPPC No. 03/441.** Miguel Garcia, a member of the Planning Commission for the City of Montebello, failed to timely file a 2002 annual statement of economic interests, in violation of Government Code section 87203 (1 count). \$100 fine.

(Continued from page 13)

- **In the Matter of Thomas Waterson, FPPC No. 03/715.** Thomas Waterson, a member of the Mountain View Fire Protection District in Stanislaus County, failed to timely file a 2002 annual statement of economic interests, in violation of Government Code section 87300 (1 count). \$100 fine.
- **In the Matter of Sandy Simon-Wargo, FPPC No. 03/356.** Sandy Simon-Wargo, a member of the Parks and Community Services Commission for the City of American Canyon, failed to timely file an assuming-of-office statement of economic interests, in violation of Government Code section 87300 (1 count). \$100 fine.
- **In the Matter of Cedrice Miller, FPPC No. 03/727.** Cedrice Miller, a claims examiner for Keenan & Associates, consultants for multi-jurisdictional insurance agencies, failed to timely file a 2002 annual statement of economic interests, in violation of Government Code section 87300 (1 count). \$100 fine.
- **In the Matter of Athena Aaron, FPPC No. 03/728.** Athena Aaron, an insurance broker for Keenan & Associates, consultants for multi-jurisdictional insurance agencies, failed to timely file a 2002 annual statement of economic interests, in violation of Government Code section 87300 (1 count). \$100 fine.
- **In the Matter of James Porras, FPPC No. 03/720.** James Porras, a member of the Riverside County Planning Commission, failed to timely file a 2002 annual statement of economic interests, in violation of Government Code section 87203 (1 count). \$100 fine.
- **In the Matter of Anthony Daysog, FPPC No. 03/738.** Anthony Daysog, a member of the Alameda City Council, failed to timely file a 2002 annual statement of economic

interests, in violation of Government Code section 87203 (1 count). \$100 fine.

- **In the Matter of Bill Warmerdam, FPPC No. 03/529.** Bill Warmerdam, a member of the California Apple Commission, failed to timely file a 2002 annual statement of economic interests, in violation of Government Code section 87300 (1 count). \$100 fine.

Late Contribution – Streamlined Program

Failure to Timely File Late Contribution Reports – Proactive Program. Staff: Acting Chief Investigator Sue Straine, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failure to file late contribution reports in 2003, in violation of Government Code section 84203:

- **In the Matter of Suzanne Saperstein, FPPC No. 2004-154.** Suzanne Saperstein of Houston, Tex., failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

FPPC

**Toll-free Advice Line:
1-866-ASK-FPPC
(1-866-275-3772)**





Legislative Update

The new Legislature was sworn in on December 6, 2004. Legislation proposed by FPPC staff for the 2005-2006 Session is detailed in a memorandum prepared for the December 9, 2004, meeting of the Commission. That memo may be viewed at the following link:

<http://www.fppc.ca.gov/Agendas/12-04/legproposals.pdf>

The following information on new laws is condensed from the Legislative Report prepared for the October 7, 2004, Commission meeting, with selected updates. For the complete report, please see the meeting agenda on our website at:

<http://www.fppc.ca.gov/index.html?id=329>

The Legislature adjourned for the 2003-2004 Session on August 27, 2004. The following bills affecting the Political Reform Act were signed by the Governor.

Also, please see our new laws fact sheet on our website at:

<http://www.fppc.ca.gov/index.html?id=449>

Each of the Commission's three sponsored bills – SB 604, SB 1340, and SB 1353 – was signed into law. Most bills take effect on January 1, 2005. **As urgency measures, AB 890, SB 1449, and SB 604 took effect immediately.**

AB 890 (Levine) Makes state and county political party committees state general purpose committees, thus subjecting them to pre-election disclosure requirements, and also in-

cludes aggregated contributions of \$1000 or more to a political party committee in the definition of late contributions. Signed by Governor, Chapter 623, Statutes of 2004.

AB 3101 (ER&CA) Provides that a candidate may not change his or her acceptance or rejection of voluntary expenditure limits more than twice after the candidate's initial filing of a statement of intention to be a candidate. Signed by Governor, Chapter 207, Statutes of 2004.

SB 604 (Perata) For purposes of advertising disclosure rules, defines "cumulative contributions" to be those contributions received beginning 12 months prior to the date the committee made its first expenditure to qualify, support, or oppose the measure and ending within seven days of the time the advertisement is sent to the printer or broadcast station. If the committee can show that contributions received from the two highest contributors have been used for expenditures unrelated to the candidate or ballot measure featured in the communication, the committee shall disclose the contributors making the next largest cumulative contributions. Deletes references to telegrams and adds methods for filing, including facsimile transmission and guaranteed overnight delivery. Amended by the author at the request of plaintiffs in *Levine v. FPPC* to reform the slate mail disclosure statutes at issue in that case. Signed by Governor, Chapter 478, Statutes of 2004.

SB 1340 (Perata) Requires filing officers for independent expenditure committees to maintain paper independent expenditure reports under the name of the candidate or measure supported or opposed by the expenditure. The bill would require retention of campaign records for five years, require audits of electronic filings, and create a four-year statute of limitations for collection of fines. Signed by Governor, Chapter 483, Statutes of 2004.

SB 1353 (Perata) Excludes federal employees serving on state or local agencies in the capacity of their federal employment from the definitions of "designated employee" and "public official." Commission-sponsored measure that exempts

(Continued on page 16)

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Social Security, disability and other similar benefit payments from the definition of income, and provides that supplemental pre-election statements must be submitted by guaranteed-overnight delivery. Signed by Governor, Chapter 484, Statutes of 2004.

SB 1458 (Johnson) Requires the Franchise Tax Board to complete audit reports within one year of selecting the subject of the audit, and requires the Commission to file any civil complaint based on such an audit report within one year of the date the FTB forwards its report. Signed by Governor, Chapter 591, Statutes of 2004.

SB 1449 (Johnson) Prohibits a candidate from loaning more than \$100,000 from any source, including banks, to his or her elective state office campaign. Signed by Governor, Chapter 815, Statutes of 2004.

SB 1712 (Alpert) Requires the Secretary of State's office to review current filing and disclosure requirements of the Online Disclosure Act of 1997 and report to the Legislature, no later than June 1, 2005, its recommendations on revising requirements so as to promote greater reliance on electronic and online submissions. Signed by the Governor, Chapter 816, Statutes of 2004.

SB 1730 (Johnson) Changes the statewide direct primary election from being held on the first Tuesday after the first Monday in March in each even-numbered year, to being held on the first Tuesday after the first Monday in June of each even-numbered year. Signed by the Governor, Chapter 817, Statutes of 2004.

Website Update



By Jon Matthews
FPPC Publications Editor

New Interested Persons' Page

We have revised our website's Interested Persons' page in an effort to make it easier to access and use.

This newly designed page is intended to assist members of the public and regulated community who wish to join our Interested Persons' process, or who simply wish to find up-to-date information on key policy discussions underway at the FPPC. Here is the direct link to the page:

<http://www.fppc.ca.gov/index.html?id=450>

To make the page easier to find, there is now a direct "Interested Persons' Meetings" link on the left side of our home page. You no longer have to go through the "Commission" link to find the page.

On the new page itself, we still offer the option of reviewing Interested Persons' notices by date. But we also have created a new section that provides summaries and links for selected key policy proposals and discussions at the FPPC. For example, this link takes you to a section on the proposed changes to several regulations used to determine the value of gifts:

<http://www.fppc.ca.gov/index.html?id=450#1>

A key intent is to group as much information as possible on key issues in a central location on our website.

Seminars schedules are being posted

Check the Workshops and Seminars section of our website for the latest schedule of FPPC seminars for candidates, committees and filing officers. The link is:

<http://www.fppc.ca.gov/index.html?id=359>

The Clerks' Corner



The Annual Statement of Economic Interests Filing Season Is Just Around The Corner!

See this issue's articles on this important subject:

- ♦ Pages 1, 3: Filing officer guidelines adopted by Commission
- ♦ Page 5: Form revisions
- ♦ Page 17: Helpful hints and reminders
- ♦ Page 18: Form availability, e-mail notification of filers, and filing officer training
- ♦ Page 19: 2005 due dates for the Form 700
- ♦ Pages 20-21: 2005 quick calendar for Statements of Economic Interests and conflict-of-interest codes

Statement of Economic Interests Helpful Hints and Reminders

As we gear up for the annual filing of the Statements of Economic Interests, here are a few reminders and helpful hints:

- Provide code filers with the disclosure category portion of the conflict-of-interest code. The disclosure category describes "what" economic interests must be reported, and the Form 700 describes "how" to report those economic interests.
- Date stamp each statement upon receipt in the "Official Use Only" section of the Cover Page.
- Annual statements that are postmarked by April 1, 2005, are considered timely filed. For statements that are postmarked on or after April 1, 2005, please include either the postmarked envelope or a copy of the postmarked envelope when you forward the statements to FPPC as evidence of timely filing.
- Newly elected and leaving officeholders must file assuming or leaving office statements, respectively, within 30 days of assuming or leaving. Officeholders who are re-elected are not required to file leaving and assuming office statements. They continue to file annual statements.
- Filers who assumed office between October 1, 2004, and December 31, 2004, and filed assuming office statements are not required to file the 2004 annual statements. The next annual statement will be due on April 3, 2006, and will cover the day after their assuming office date through December 31, 2005.
- For statements that are to be forwarded to the Fair Political Practices Commission, remember to send those in within five days of the filing deadline.

Form 700 – Statement of Economic Interests Available on Our Website

The Form 700, Statement of Economic Interests, will be available on our website in early January 2005 to be downloaded, printed and photocopied. We will mail hard copies only upon request. We encourage you to instruct your filers to complete the interactive version of the form, print out the schedules they have completed and file the statement directly with you. See the inset below. If you desire your forms to be mailed directly to you, please call the FPPC at 1-866-275-3772, ext. 3.

E-mail Notification to Filers

If you can communicate with your filers by e-mail, you can notify them of their filing obligation by e-mail! Please be sure that:

- In your e-mail, direct filers to go to FPPC's web site <http://www.fppc.ca.gov>, click into "Forms" in the upper right-hand corner of the home page and scroll down to access the Form 700 interactive version;
- You have a mechanism in place to confirm that notification has been received;
- The e-mails are archived until such time as the statement has been filed; and
- You have ensured that the documents outlining positions and disclosure categories in the conflict-of-interest code are attached or readily available to the employees so that they know their reporting obligations.

Remember that for filers who do not have computer stations or e-mail capabilities, you must supply the form by mail or personal delivery.

Filing Officer Training

Filing officials should mark their calendars to attend an upcoming seminar regarding processing the Form 700 for agency staff.

Each year, the FPPC schedules a series of training workshops that review the duties and responsibilities imposed on staff assigned to process the Statements of Economic Interests, Form 700. If you're a new filing official, these workshops cover everything you need to know, including an extensive discussion on how to review forms and the process required to ensure that all filers do file. If you've been a filing official in the past but have been away from it for a few years, these workshops are excellent refresher courses. There's also ample time for questions and answers.

Conducted by staff political reform consultants at the FPPC's location in downtown Sacramento, these two-hour workshops are free of charge. Seating is limited, however, so reservations are absolutely required, and the earlier the better, as they fill up quickly.

The FPPC is located at 428 J Street, corner of 5th and J (a new "Subway" restaurant is on the ground floor), an easy 20-minute ride from Sacramento International Airport. From Interstate 5, coming from either direction, take the J Street exit; we're two blocks up on the right.

State agencies:

Wednesday, February 2, 10 a.m.,
OR
Wednesday, February 9, 1 p.m.

City/County agencies:

Tuesday, February 8, 1 p.m.,
OR
Wednesday, February 16, 10 a.m.

Multi-county agencies:

Tuesday, February 15, 1 p.m.

For further information, and to make reservations, please call 916-322-5660, extension 3, or 1-866-275-3772, extension 3.



2005 Due Dates for the Form 700

As a new year begins, so too begins a new filing season for Form 700s, the annual statements of economic interests (SEIs).

Due March 1, 2005:

For statements from the following filers, make a copy of the statement for your records, send one copy to the Secretary of State, and send the original to the Fair Political Practices Commission within five days of the deadline or receipt of a statement filed late.

- Governor
- Lieutenant Governor
- Attorney General
- Insurance Commissioner
- Controller
- Secretary of State
- Treasurer
- Superintendent of Public Instruction
- Members of the state Assembly
- Members of the state Senate
- Members of the state Board of Equalization

For statements from the following filers, keep a copy and send the original to the FPPC within five days of the deadline or receipt of a statement filed late:

- Judges and court commissioners
- Members of the Public Utilities Commission
- Members of the Energy Resources Conservation and Development Commission
- Members of the California Coastal Commission
- Elected members of the board of administration of the California Public Employees Retirement System

Due April 1, 2005:

- County Supervisor
- District Attorney
- County Counsel
- County Treasurer
- County Chief Administrative Officer
- County Planning Commissioner
- Member of City Council
- Mayor
- City Manager
- City Attorney
- City Treasurer
- City Chief Administrative Officer
- City Planning Commissioner

Designated Employees Covered Under an Agency's Conflict-of-Interest Code:

To determine which employees, including consultants, must file statements of economic interests, refer to your agency's conflict-of-interest code. The code should list positions within your agency for which employees must complete SEIs. The conflict-of-interest code should also set out employees' filing obligations and the date that annual SEIs are due. If your agency adopted the model code in Regulation 18730 as your conflict-of-interest code, your filing deadline is April 1.

When you give a designated employee a Form 700 to complete, you must also provide the employee's disclosure category (from your agency's conflict-of-interest code). The code, not the form, determines what that employee must report and where to file. The majority of designated employee statements are not sent to the FPPC but rather maintained at the agency.

See our 2005 SEI quick calendar on the next two pages. →

2005 Quick Calendar for Statements of Economic Interests and Conflict-of-Interest Codes

Page 1



January 2005

Form 700 Available

The FPPC will provide e-mail notification to agencies when the 2004/2005 Form 700 becomes available. The form was approved at the Commission's December 2004 meeting, and should be available on our website in early January 2005. Hard copies will be mailed only upon request. Continue to use the 2003 Gift, Honoraria, Travel and Loan Fact Sheet available on our website. The gift limit will adjust to \$360 effective January 1, 2005.

State Agency Biennial Notice Mailing

Each state agency will receive a mailing explaining the biennial code review process.

February 1, 2005

Pre-Notification of Annual Form 700

Filing officials should notify filers of their filing obligation no later than February 1, 2005, if the annual Form 700 is due on March 1, 2005.

February 2005

Seminars

The FPPC will hold workshops for state and local filing officers that will cover statement of economic interests filing officer duties including how to review statements and to ensure that statements are filed timely. Seminars will also be held for state employees responsible for reviewing the agency's conflict-of-interest code. The seminar will address how to amend a code and ensure that it is properly prepared. See page 18 of this issue of the *Bulletin* for dates.

March 1, 2005

Form 700 Filing Deadline

See the previous page (page 19) for the list of officials required to file on March 1.

Pre-Notification for Annual Form 700 filers

Filing officers should notify filers of their filing obligation no later than March 1, 2005, if the annual Form 700 is due on April 1, 2005.

Deadline for State Agency Biennial Notice

State agencies must have submitted the biennial notice to the FPPC.

March 7, 2005

Deadline for Forwarding March 1 Form 700s to FPPC

You can also clear your desk and forward these statements to us before the deadline.

April 1, 2005

Form 700 Filing Deadline

See the previous page (page 19) for the list of officials required to file on April 1.

April 6, 2005

Deadline for Forwarding Form 700s Filed by April 1 to FPPC

Only forward statements for the officials listed on the previous page (page 19).

(Continued on page 21)

2005 Quick Calendar for Statements of Economic Interests and Conflict-of-Interest Codes

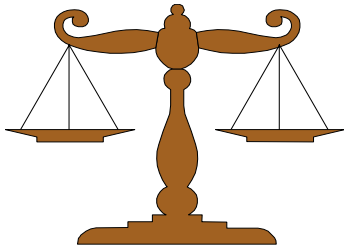
Page 2



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- May 2, 2005** **State and Local Agencies with 50 or fewer Form 700 filers**
It is recommended that written non-filer notices be sent within 30 days to employees who have not filed an annual Form 700 by April 1.
- June 1, 2005** **State and Local Agencies with 50 or fewer Form 700 filers**
It is recommended that a "second notice" non-filer letter be sent within 30 days of the first non-filer notice to employees who have not filed an annual Form 700.
- July 1, 2005** **State and Local Agencies with 50 or fewer Form 700 filers**
Filing officers should refer non-filers who received first and second non-filer notices to the FPPC. See FPPC website for the enforcement referral form.
- August 1, 2005** **State and Local Agencies with more than 50 Form 700 filers**
It is recommended that written non-filer notices be sent within 120 days to employees who have not filed an annual Form 700.
- October 3, 2005** **State and Local Agencies with more than 50 Form 700 filers**
It is recommended that a "second notice" non-filer letter be sent within 60 days of the first notice to employees who have not filed an annual Form 700.
- November 17, 2005** **State and Local Agencies with more than 50 Form 700 filers**
Filing officers should refer non-filers who received first and second non-filer notices to the FPPC. See the FPPC website for the enforcement referral form.
- Ongoing** **Assuming and Leaving Office Statements**
Continue to monitor and notify filers who assume or leave office of the Form 700 filing requirements.
Forward assuming and leaving office statements for filers listed on Page 19 within five days of a filing deadline.
Notify the FPPC if you are not successful in obtaining a statement for these filers.





Litigation Report

Pending litigation report prepared for the Commission's December 9, 2004, meeting:

California ProLife Council, Inc. v. Karen Getman et al.

This action challenges the Act's reporting requirements for express ballot measure advocacy. In October 2000 the Federal District Court for the Eastern District of California dismissed certain counts for standing and/or failure to state a claim, and later granted the FPPC's motion for summary judgment, eliminating further counts in a judgment entered on January 22, 2002. Plaintiff appealed that judgment to the Ninth Circuit Court of Appeal. The Ninth Circuit rejected plaintiff's legal claims, affirming that the challenged statutes and regulations were not unconstitutionally vague, and that California may regulate ballot measure advocacy upon demonstrating a sufficient state interest in so doing. The Ninth Circuit remanded the matter back to the district court to determine whether California can establish a state interest sufficient to support its committee disclosure rules, and whether the state's disclosure rules are properly tailored to that interest. To permit more time for discovery, the district court issued an amended Scheduling Order, under which discovery closed on May 17, 2004, while disclosure and discovery relating to expert witnesses concluded on August 20, 2004. Cross-motions for summary judgment are now set for hearing on December 17, 2004.

FPPC v. Agua Caliente Band of Cahuilla Indians, et al.

The FPPC alleges in this action that the Agua Caliente Band of Cahuilla Indians contributed more than \$7.5 million to California candidates and ballot measure campaigns between January 1 and December 31, 1998, but did not timely file major donor reports disclosing those contributions, and likewise failed to disclose more than \$1 million in late contributions made between July 1, 1998, and June 30, 2002. The FPPC later amended the complaint to add a cause of action alleging that the tribe failed to disclose a \$125,000 contribution to the Proposition 51 campaign on the November 5, 2002, ballot. Defendants responded to the lawsuit by filing a motion to quash service, alleging that they are not required to comply with the Political Reform Act because of tribal sovereign immunity. On February 27, 2003, the Honorable Loren McMaster of the Sacramento County Superior Court ruled in the FPPC's favor. On April 7, defendants filed a petition for writ of mandate in the Third District Court of Appeal, challenging the decision of the trial court. The petition was summarily denied on April 24, 2003, whereupon defendants filed a petition for review in the California Supreme Court. On July 23, 2003, the Supreme Court granted review and transferred the case back to the Court of Appeal, where oral argument was heard before Justices Blease, Sims, and Davis. On March 3, 2004, the court issued its opinion, affirming the Superior Court's decision after concluding that "the constitutional right of the state to preserve its republican form of government trumps the common law doctrine of tribal immunity." On April 6, 2004, Blue Lake Rancheria and Mainstay Business Solutions, a Government Sponsored Enterprise of the Blue Lake Rancheria, filed with the California Supreme Court a request for depublishation of the Court of Appeal decision. Associate Justice Sims of the Third District Court of Appeal, author of the opinion, filed a letter with the Supreme Court on April 19, 2004, requesting that the depublishation request be denied on the ground that it had not been properly

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...Litigation Report

(Continued from page 22)

served on the Third District Court of Appeal, depriving him of the opportunity to respond to the depublication request. In the interim, on April 13, 2004, the Agua Caliente Band of Cahuilla Indians filed a Petition for Review in the California Supreme Court. On June 23, 2004, the Supreme Court granted the Petition for Review. On July 14, 2004, the Agua Caliente Band of Cahuilla Indians requested an extension of time until September 21, 2004, to file its opening brief, which was granted by the court. At the request of counsel for the Commission, the court granted a seventy-day extension of time from the October 22, 2004, due date to, and including, December 30, 2004, in which to file the respondent's brief.

FPPC v. Santa Rosa Indian Community of the Santa Rosa Rancheria

In this action the FPPC alleges that the Santa Rosa Indian Community of the Santa Rosa Rancheria failed to file major donor semi-annual campaign statements in the years 1998, 1999, and 2001, involving more than \$500,000 in political contributions to statewide candidates and propositions, and that defendants failed to disclose more than \$350,000 in late contributions made in October 1998. The complaint was originally filed on July 31, 2002, and was amended on October 7, 2002. On January 17, 2003, defendants filed a motion to quash service, based on its claim of tribal sovereign immunity. On May 13, 2003, the Honorable Joe S. Gray of the Sacramento County Superior Court entered an order in favor of defendants. On July 14, 2003, the FPPC appealed this decision to the Third District Court of Appeal, where the matter was scheduled for oral argument. The Attorney General filed an amicus brief in support of the FPPC's position. On July 16,

2004, the Commission's appellate counsel was apprised that the tribe had secured new counsel to pursue this appeal and would be seeking a continuance of the oral argument date. On July 29, 2004, the Santa Rosa Indian Community of the Santa Rosa Rancheria filed a substitution of attorneys replacing Monteau & Peebles with Lang, Richert & Patch of Fresno, as appellate counsel. Concurrent with the filing of the substitution of attorneys, a request for continuance of the date for oral argument was made. The court granted a continuance to October 19, 2004, at 9:30 a.m. The court heard oral argument on October 19, 2004, and on October 27, 2004, issued a decision in favor of the Commission overturning the trial court's granting of defendant's motion to quash.

FPPC v. American Civil Rights Coalition, et al.

In a lawsuit filed in the Sacramento County Superior Court on Sept. 3, 2003, the FPPC alleges that the American Civil Rights Coalition ("ACRC") and its CEO Ward Connerly failed to file campaign statements reporting the source of almost \$2 million contributed to promote the passage of Proposition 54 on the Oct. 7 ballot. An application for intervention in the lawsuit was filed on September 16 by a group known as the "DOE Class" of past and potential contributors to ACRC, seeking among other things to postpone a hearing on the FPPC's motion for preliminary injunction to an unspecified later date. The court went forward with the injunction hearing on September 19, 2004, denying the FPPC's motion on the ground that the factual record was not sufficiently developed to warrant a preemptive remedy. Defendants next brought a special motion to strike the complaint under Code of Civil Procedure § 425.16. On December 1, 2003, the Superior Court denied this special motion. On December 3, defendants appealed to the Third District Court of Appeal. On August 16, 2004, the court of appeal issued its decision affirming the trial court's de-

(Continued on page 24)

...Litigation Report

(Continued from page 23)

nial of defendant's special motion. A case management conference in the Superior Court is scheduled for December 2, 2004.

Larry R. Danielson v. FPPC

On March 13, 2004, Danielson filed a Notice of Appeal from a money judgment entered against him by the Sacramento County Superior Court. Danielson had previously sought a Writ of Mandate in that court, challenging a proposed decision by an Administrative Law Judge which the Commission adopted at its December 2002 meeting. On November 7, 2003, the Superior Court denied appellant's petition. The FPPC then filed its complaint for a money judgment, and prevailed on a motion for summary judgment, which is the subject of the present appeal. Since Danielson missed the deadline for depositing the fees to pay for the transcript of the hearing, on April 13, 2004, he filed a Notice of Motion and Motion to Include Reporter's Transcript on Appeal, which was granted by the court on April 20, 2004. On November 4, the Appellate Division of the Sacramento Superior Court denied Danielson's appeal on the merits, and further denied his application for certification of the appeal to the Third District Court of Appeal. Danielson has now filed a petition for certification directly with the Court of Appeal, and a response to that petition is due on November 19, 2004. The Attorney General's office is representing the FPPC in this matter.

California Republican Party, et al. v FPPC et al.

On October 12, 2004, the California Republican Party, the California Democratic Party, and the Orange County Republican Party filed a Complaint in the Federal District Court seek-

ing injunctive and declaratory relief from two provisions of the Act, sections 84503 and 84506, which require a committee paying for ballot measure advertisements to identify their two highest contributors of \$50,000 or more. On October 20, 2004, plaintiffs amended their Complaint, and noticed a motion for Temporary Restraining Order to be heard on October 26, 2004. The FPPC filed its Opposition to this motion on October 22. The Attorney General's office represented the Commission at the hearing before the Honorable Frank C. Damrell, Jr. The following day, the court issued a preliminary injunction enjoining the Commission from enforcing the provisions of the Act above against plaintiffs. The Commission has obtained an extension to file a responsive pleading to December 3, 2004.



FPPC
Toll-free Advice Line:
1-866-ASK-FPPC
(1-866-275-3772)

Lobbyist Ethics Courses Scheduled for Sacramento, Los Angeles

Government Code section 86103 requires lobbyists to complete an ethics course as a condition of registration to lobby in the State of California. These courses are conducted jointly by the Assembly Legislative Ethics Committee and the Senate Committee on Legislative Ethics.

THERE IS NO PROVISION FOR WAIVER OF THE ETHICS COURSE REQUIREMENT, NOR IS THERE PROVISION FOR AN EXTENSION OF THE DEADLINE TO FILE THE REQUIRED "LOBBYIST CERTIFICATION STATEMENT" (FORM 604) WITH THE SECRETARY OF STATE, CERTIFYING AN ETHICS COMPLETION DATE.

Any registered lobbyist (new or renewing) who has not completed the ethics course requirement should attend one of these courses.

A LOBBYIST WHO DOES NOT COMPLETE THE ETHICS COURSE REQUIREMENT AND FAILS TO COMPLY WITH THE RELATED FILING DEADLINES IS PROHIBITED FROM ACTING AS A LOBBYIST IN CALIFORNIA AND MAY BE SUBJECT TO CRIMINAL PENALTIES AND SUBSTANTIAL FINES.

For reservation information, contact Jeanie Myers at the Senate Legislative Ethics Committee (916) 324-6929. An ethics course sign-up form will be faxed to you. Sign-up deadline is the Thursday before each course date. Completed sign-up forms accompanied by \$25 check or money order must be received in the committee office by the sign-up deadline.

Space Is Limited – Sign Up Early
Ethics Course Fee: \$25

Lobbyist Ethics Courses at the:

Sacramento Convention Center

- 1) Wed., Jan. 12, 2005 **(FULL)**
- 2) Wed., Feb. 9, 2005, 1:30-3:30 p.m.
- 3) Tues., April 12, 2005, 1:30-3:30 p.m.

Southern California, Los Angeles Ronald Reagan State Building

- 4) Thurs., March 17, 2005, 1:30-3:30 p.m.
- ♦ Advance Sign-Up and Payment Required
 - ♦ Check or Money Order Only
 - ♦ Credit Cards and Cash Not Accepted

FPPC Advice Summaries

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance may be provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an "A," while informal assistance is identified by the letter "I." Letters are summarized by subject matter and month issued.

Campaign

Patricia E. Campbell
City of Seal Beach
Dated: September 1, 2004
File Number A-04-153

A defeated candidate for city clerk asks if she can amend her campaign termination statement to show loans as outstanding, when she mistakenly reported them as forgiven on her initial filing. In these limited circumstances where she does not intend to reopen the committee or fundraise in any way, she may file an amendment to her campaign form to correct the loan status.

David Bauer
Citizens for Bob Margett &
Committee to Re-elect Bob Margett
Dated: September 2, 2004
File Number A-04-179

Campaign committees established for elections held prior to the effective date of Proposition 34 – 2000 are not subject to the contribution limits of sections 85301 and 85302. Since this is the case, attribution is not required when funds are transferred to these committees from a future election committee that is subject to Proposition 34's contribution limits.

Kinde Durkee, Treasurer
Westly 2006 Committee
Dated: September 9, 2004
File Number A-04-182

A state candidate's committee may receive shares of stock as a non-monetary contribution, as long as the value of the stock on the day of transfer does not exceed the contribution limits and the stock is converted to cash prior to expenditure.

Jeffrey R. Dodge
PACE International Union
Dated: September 15, 2004
File Number A-04-185

The Act does not specify or prohibit any particular method of raising contributions and making expenditures. As long as the union properly reports its political activities and complies with the record keeping requirements and contribution limits, the method used by the union to collect contributions from its members does not violate any provisions of the Act.

Dennis Zell
California Assembly
Dated: August 5, 2004
File Number A-04-142

The owner of a billboard is advised that renting billboard space to candidates at a price not available to the general public would constitute a non-monetary contribution to the candidate.

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Michael T. McKeeman
Oakdale Elementary School District
Dated: August 23, 2004
File Number A-04-171

A school district's proposed informational materials to be sent to parents regarding an upcoming school bond issue is analyzed. It is concluded that the materials do not contain "express advocacy" and therefore, are not expenditures subject to regulation under the Act.

Jonathan Dickinson
Roy Ashburn for Congress
Dated: August 20, 2004
File Number A-04-177

A state elected official may accept contributions to the official's federal office campaign committee from a lobbyist registered to lobby the state official.

Wendy L. Prather, CPA
Friends of Tom Berryhill
Dated: July 8, 2004
File Number A-04-102

A candidate who opened a 2004 committee for a primary election to an Assembly seat, but who did not appear on the ballot for that election, is advised that the candidate may transfer without attribution those funds to a committee for the next election to that seat in 2006.

Diane M. Fishburn
O'Connell 2006
Dated: July 23, 2004
File Number A-04-110

A statewide officeholder is advised on various issues concerning campaign recordkeeping for purposes of section 85700 and the use of interest on pre-34 campaign contributions.

Steven G. Churchwell
Californians Against Government Run Healthcare
Dated: July 23, 2004
File Number A-04-113

A trade association and its sponsored political action committee are separate donors for purposes of advertising disclosure rules.

Harvey Gerber
City of Rancho Mirage
Dated: July 6, 2004
File Number A-04-122

A donation of campaign funds by a member of a city council to a local nonprofit theater that is supported in part by city funds and used as a venue for city events is permissible.

Steven G. Churchwell
California Landscape Contractors Association
Dated: July 27, 2004
File Number A-04-143

Nothing in the Act prohibits a sponsor from transferring funds from its membership account to its sponsored PAC. The sponsor will not qualify as a committee by virtue of these transfers. However, if the transferred funds are from membership dues, the funds must be attributed to the members of the sponsor on a pro rata basis. No single member may give more than \$5,300 to the PAC for purposes of making contributions to state candidates. On the other hand, if the transfer to the PAC consists of funds other than membership dues, the sponsor cannot transfer (in the aggregate) more than \$5,300 per year.

Conflict of Interest

Laurence S. Wiener
Vigo G. Nielsen, Jr.
City of Beverly Hills
Dated: September 1, 2004
File Numbers I-04-107 & I-04-125

Informal assistance is provided to a city council member and a potential source of income of income or gifts regarding whether a finder's fee is income or a gift, and what materiality standard under a conflict-of-interest analysis would apply to a newly formed corporation. The payment of a finder's fee is income if consideration of equal or greater value is provided in exchange for the payment.

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Robert C. Cheasty
Citizens for the Eastshore State Park
Dated: September 23, 2004
File Number I-04-139

The president and CEO of a nonprofit 501(c)(3) organization is considering running for a locally elected office. The officer is not paid for his service to the nonprofit. The officer asks if he has a conflict of interest under the Act. A 501(c)(3) nonprofit organization is not a business entity under the Act. Additionally, because the officer is not paid by the nonprofit, he has no economic interest in the nonprofit organization. Since the officer has no economic interest in the nonprofit organization, there is no potential for a conflict of interest under the Act.

Elizabeth Conner
City of Arcata
Dated: September 9, 2004
File Number A-04-166

Under the nexus rule, a public official who is an executive director of a nonprofit entity will have a conflict of interest in a decision before the official's agency.

Rafael Adame
City of Watsonville
Dated: September 7, 2004
File Number I-04-175

A city building official with supervisory authority over city building inspectors requests advice under the Act's conflict-of-interest provisions when he has purchased a vacant lot within the city limits and intends to construct a building on that lot for which inspections and permits would be required. He was advised that he would have a conflict of interest if he used his position to influence the decision regarding the issuance of the building permits, including participation in the supervision of others involved in the decision.

Laura McKinney
City of Berkeley
Dated: September 8, 2004
File Number A-04-178

Absent an exception, a council member and planning commissioner were advised that they could only participate in decisions to change the

zoning of property in the jurisdiction (including their own) if there is no reasonably foreseeable material financial effect on their respective properties. Where the decision solely concerns the amendment of an existing zoning ordinance or other land use regulation (such as changes in the uses permitted, or development standards applicable, within a particular zoning category) which is applicable to all other properties designated in that category, the officials' real property interests will be considered indirectly involved in the decision. Also discussed is the exception by which officials may appear before his or her own agency as a member of the general public in the course of its prescribed governmental function in order to represent himself or herself on matters related solely to his or her personal interests, and the "public generally" exception.

Heather C. Mc Laughlin
City of Benicia
Dated: September 21, 2004
File Number A-04-192

A mayor's business property, which is located within 500 feet of the boundaries of the property which is the subject of the governmental decision, is not financially affected by the governmental decision. Therefore, the mayor has rebutted the presumption that the financial effect of the decision on the mayor's property is material and does not have a conflict of interest in the decision and may participate in the decision.

William Lepowsky
Dated: August 20, 2004
File Number A-04-126

Based on regulation 18702.4(c)(1), the Act does not restrict a public official/teacher's communication with other faculty at his school concerning purchase and use of a textbook which the official authored.

John P. Fraser
El Dorado Irrigation District
Dated: August 19, 2004
File Number A-04-128

Advises on the applicability of the "legally required participation" exception to the conflict-of-interest rules in the context of a public official who wishes to sign a legal tolling agreement as a member of an agency.

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Edgar W. Reece, CEO
City of Claremont
Dated: August 20, 2004
File Number I-04-135

A community member asks if there are any restrictions applicable to him if he joins the police commission. General advice is given regarding the conflict-of-interest provisions. His company provides consulting services to the city and may qualify certain employees as consultants under the Act.

Alix A. Rosenthal
Town of Plymouth
Dated: August 20, 2004
File Number A-04-138

A council member may participate in a municipal services agreement decision if it is not reasonably foreseeable that the decision will financially and materially affect the member's economic interests. Regarding the member's real property interest, it is presumed that the member's leasehold interest will experience a material financial effect, but the presumption may be rebutted.

Marshall S. Rudolph
Mono County Planning Commission
Dated: August 5, 2004
File Number A-04-144

The Act does not prohibit a county planning commissioner from contracting with the county. Other provisions of law, not within the Act may apply. The Act would, however, prohibit the commissioner from making, participating in making, and influencing the decision on the contract.

Huston T. Carlyle, Jr.
San Bernardino City Unified School District
Dated: August 13, 2004
File Number A-04-145

A council member does not have an economic interest in his governmental employer or union.

Dominic Dutra
City of Fremont
Dated: August 3, 2004
File Number I-04-148

A real estate broker, employed by a brokerage firm, who is also a public official, is advised in general terms that those persons, including business entities who become sources of income, whether through the Commission or otherwise, of \$500 or more will also become his economic interests. The letter contains a general discussion of when an economic interest might trigger disqualification from a particular governmental decision.

Richard R. Rudnansky
Town of Windsor
Dated: August 17, 2004
File Number I-04-160

A planning commissioner is a one-half partner in an urban design business. As part of the work performed for clients, the commissioner and her firm often submit maps and drawings on behalf of their clients who have applications pending before various governmental agencies. The commissioner was advised that except as permitted by regulation 18702.4(b)(4), she may not appear before the planning commission, an agency which is appointed by the planning commission or over which the planning commission has budgetary control, or the staff of the respective agencies. However, her partner is not prohibited from appearing.

John C. Spencer
County of Nevada
Dated: August 31, 2004
File Nos. I-04-161 & I-04-162

A planning commissioner is advised generally in the letter regarding appearing before his agency or other agencies within the county and what would constitute the prohibited use of his governmental position to influence a decision regarding a private client. Further, the official is advised regarding potential conflict-of-interest issues when a source of income to his business, an engineering consultant, is hired by a project applicant who will appear before the planning commission for review and approval of a subdivision plan.

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Mark D. Hensley
City of Port Hueneme
Dated: August 26, 2004
File Number A-04-168

A city council member may not make, participate in making or influence any decision regarding a condominium project since it will have a reasonably foreseeable material financial effect on his economic interests in real property, and his undivided interest in common areas of the condominium complex where he resides. If an exception applies, however, the council member may address the issue in a noticed meeting as a member of the general public.

H. Peter Klein
County of Mendocino
Dated: July 22, 2004
File Number I-04-038

The Commission could not determine, as a general proposition, whether any of the seven members of a planning commission had a conflict of interest in decisions related to a proposed county grading ordinance. A reasonably foreseeable, material financial effect on any member's economic interests could not be established without more particularized details on the contents of the draft ordinance, the nature of specific decisions before the planning commission, and plans for development of real property potentially subject to the ordinance in question.

Peter M. Thorson
City of Temecula
Dated: July 2, 2004
File Number I-04-106

A mayor is advised that he does not have a conflict of interest in participating in a governmental decision involving a developer because he worked for an engineering firm which was employed on the developer's project in another city, unless there is a reasonably foreseeable material financial effect on his employer.

Celia A. Brewer
City of Solana Beach
Dated: July 6, 2004
File Number A-04-123

It is presumed that the financial effect of specific user permit decisions on an official's real property is not material. The official may wish to apply the segregation/segmentation rules to segregate interlinked decisions which may reopen prior decisions in which an official had a disqualifying financial interest.

Roy A. Hanley
City of Atascadero
Dated: July 6, 2004
File Number A-04-129

A public official does not have an economic interest in real property owned by an adult-child under the Act's current definition of "immediate family."

Patricia Murray
Yolo Wayfarer Christian Mission Board
Dated: July 6, 2004
File Number A-04-141

A member of a planning commission requested advice as to whether by making a decision which will have an effect on a nonprofit organization of which she is a board member, she will have a conflict of interest under the Act. The planning commissioner will not have a conflict of interest in the decision because she does not have an economic interest in the decision. She does not receive any income from the nonprofit. In addition, the planning commissioner's board membership with the nonprofit is not disqualifying since nonprofit organizations are not considered business entities under the Act. Therefore, her board membership would not be considered a business position.

Michelle L. Robinson
Department of Consumer Affairs
Dated: July 30, 2004
File Number I-04-151

This requestor provides computer-based testing services to the Office of Examination Resources under the DCA and seeks participation in a private consulting service business for development of proposals which offer test valida-

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tion and test administration services to public agencies. She is advised that this is a question not governed by the Act.

Michael D. Milich
City of Modesto
Dated: July 23, 2004
File Number A-04-157

A follow-up to *Milich* Advice Letter, No. A-04-127. Where a business has annual receipts in excess of one billion and earnings before taxes in excess of \$2.5 million, the financial effect of a governmental decision on the business is considered material if it will result in an increase or decrease to the business entity's gross revenues for a fiscal year in the amount of \$500,000 or more, or in the value of assets or liabilities of \$500,000 or more, or will affect expenses for a fiscal year in the amount of \$200,000 or more.

Conflict of Interest Code

Renee A. Stadel
City of Los Angeles
Dated: July 2, 2004
File Number I-04-101

Regulation 18751 authorizes code reviewing bodies to adopt exemption criteria which are the same or similar to the criteria for state agencies. However, even if the agency is found to be an exempt agency by the local code reviewing body, the members may still be public officials subject to section 87100, et seq. Ultimately, whether the members would be exempt from the disclosure requirements of the Act is an issue the city would need to address as the code reviewing body.

Gift Limits

W. Dale Harvey
Central Valley Regional Water Quality Control Board
Dated: July 6, 2004
File Number I-04-097

An employee is advised of the Act's provisions relating to the reporting and acceptance of a gift

in a bona fide dating relationship. Gifts of a personal nature received in a bona fide dating relationship are not subject to reporting or gift limitations.

Michael Stanton
The Bond Buyer
Dated: July 23, 2004
File Number A-04-137

A manager of a financial newspaper is provided advice relating to awards or prizes potentially given to a public official as a raffle winner at a conference sponsored by the newspaper and open to the public.

Linda Y. Chang
Department of Toxic Substances Control
Dated: July 19, 2004
File Number A-04-158

A state employee who is also vice mayor for a city was advised that a leadership seminar she was invited to attend as a result of her vice mayoral position would be considered to be informational material and, therefore, the tuition would not be a gift. Meals and lodging provided in connection with attendance at the seminar are reportable gifts to the official. However, because the meals and lodging are provided by a 501(c)(3) organization and the travel is being conducted on an issue of public policy, the payments for meals and lodging will not be subject to the gift limit.

Lobbying

Bob Blattner
School Services of California
Dated: August 19, 2004
File Number A-04-124

Section 85702 does not prohibit contributions from a lobbying firm, where the firm has established a committee of non-lobbyists to make all contribution decisions for the firm.

Steven A. Burk
Miller Brewing Company
Dated: July 27, 2004
File Number A-04-154

Subsidiaries of a company are required to be

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identified on any lobbying reports if they do not pay or in any way direct and control payments for lobbying activities.

Mass Mailing

Mark C. Joseph
Strawberry Recreation District
Dated: August 5, 2004
File Number I-04-167

A recreation district may not publish and distribute a brochure containing a letter from the chair of the district's elected board of directors under section 89001.

Vickie Thornell
Mojave Water Agency
Dated: July 7, 2004
File Number A-04-095

A water agency may produce a display map featuring the elected members of the agency and not run afoul of the mass mailing provisions in the Act because the display map is not mailed or otherwise sent to other persons.

Mark van de Kamp
City of Santa Maria
Dated: July 13, 2004
File Number A-04-130

Because the Act's mass mailing prohibition does not apply to electronic mail or websites, a city is advised that it may post the mayor's message welcoming visitors to the city on its website without violating the mass mailing prohibition. Whether or not the message constitutes a contribution to the mayor is also discussed. Because the message contains no express advocacy, does not make reference either to the mayor's candidacy for elective office or to that of his opponents, and does not solicit contributions, the letter determines that no contribution to the mayor will result from the city's posting of the message.

Revolving Door

Michael P. White
Department of Aging
Dated: August 31, 2004
File Number I-04-155

A state employee is provided informal assistance relating to post-governmental employment provisions of the Act. The employee contends that she does not meet the definition of "public official" but she is designated in the conflict of interest code. The Act's three main post-governmental restrictions on individuals who leave state service may apply.

Dennis A. Dickerson
Los Angeles Regional Water Quality Control Board
Dated: August 19, 2004
File Number I-04-156

A former member of a regional water quality control board is advised on the application of the revolving door rules addressing post-governmental employment. The former public official wishes to perform consulting services for a client who appeared before the board while the former official was a member of the board.

Section 84308

Kristin S. Stergakos
Dated: August 2, 2004
File Number I-04-149

A planning commissioner who is also a candidate for city council anticipated that a business entity and an employee of that business entity would each contribute \$249 to her city council campaign and that, within 12 months of these contributions, the business entity would appear before the planning commission seeking a permit for a redevelopment project. The planning commissioner asked whether the two contributions would be aggregated together to disqualify her, under section 84308, from taking part in a decision on that application. The absence of information regarding the circumstances surrounding the contributions made it possible only to explain that, in general, contributions would

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be aggregated for purposes of section 84308 when one contributor directs and controls the contribution(s) of another.

Jerry Smith, Mayor
City of Seaside
Dated: August 31, 2004
File Number A-04-184

Section 84308 applies to city council members who also serve as members of the city redevelopment agency *unless* the board is made up of the city council in its entirety without any other members.

Statement of Economic Interests

Peggy Bernardy
Department of Water Resources
Dated: August 20, 2004
File Number I-04-041

A state agency requested advice as to whether the officials, employees or contractors of a local agency are "consultants" for purposes of the PRA due to the responsibilities that have been assumed in a local project agreement working with the U.S. Army Corps of Engineers. The individuals performing the contracting functions for the state agency with substantive review are consultants. In addition, those individuals serving in a staff capacity and participating in governmental decisions are also consultants under the state agency's conflict of interest code.

Leslie E. Murad, II
City of Redlands
Dated: August 19, 2004
File Number A-04-067

A city council is advised that an economic development consultant hired for the period of one year to coordinate economic development activities between the city and the redevelopment agency as well as to provide information, recommendations and advice to the different city agencies on economic development is not considered to be a "consultant" under the Act. He will not make governmental decisions and his limited term and duties do not qualify him under the "serves in a staff capacity" test.

Leslie E. Murad, II
City of Redlands
Dated: August 19, 2004
File Number A-04-070

A city council is advised that the individuals of a professional engineering firm hired for an on-going time period to review engineering plans, maps and documents relative to proposed development, as well as to examine building plans for compliance with state building codes and to perform field inspections as a building inspector, are considered to be "consultants" under the Act and are therefore obligated to file a Form 700. They will make governmental decisions by being able to suspend work on projects pending changes being made and they also "serve in a staff capacity" since the work is normally performed by staff which should be designated in the conflict of interest code.

Louis R. Calcagno
Monterey County
Dated: August 31, 2004
File Number A-04-173

A member of a county board of supervisors is advised that neither a business position with a nonprofit corporation nor a share of that corporation is a reportable interest, because a nonprofit corporation is not a business entity as defined by the Act.

Joseph R. Brown
Midland Management Corp.
Dated: August 31, 2004
File Number G-04-181

A legislative amendment to section 82034 would be needed to exempt disclosure of managed stock investment accounts. No advice is rendered.

